

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 3, 2003. Claims 1-37 were pending in the Application and stand rejected. Applicants amend claims 1, 7, 8, 10, 13, 31, and 37 to more clearly state the original intent of these claims. Applicants respectfully request reconsideration and favorable action in this case.

Information Disclosure Statement

The Information Disclosure Statement referred to by the Examiner in the Office Action does not pertain to Applicants' case. According to its terms, it applies to Application No. 09/563,087. Applicants respectfully request the Examiner correct the error.

Claim Rejections – 35 U.S.C. § 103

The Examiner rejects Claims 1-37 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2002/0001302 A1 to Pickett ("*Pickett*"), "in view of well known prior art." To establish obviousness of a claimed invention under § 103, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974); M.P.E.P. § 2143.03.

As currently amended, Applicants' Claim 1 recites:

A method for communicating voice and text associated with a packet-based voice communications session comprising:

receiving voice information from a local participant in a packet-based voice communications session having at least one remote participant;

converting the voice information into text;

generating packets encoding the voice information and the text; and

communicating the packets encoding the voice information and the text to the remote participant.

Applicants respectfully submit that *Pickett* taken alone or in combination fails to teach or suggest all elements of this Claim. In general, *Pickett* teaches a single integrated system for managing and controlling multiple mode/protocol voice and data transmissions. Specifically,

Pickett discloses a platform for communicating in various modes and protocols with a computing system having a multi-bus structure.

Among other aspects of Claim 1, *Pickett* fails to disclose "generating packets encoding the voice information and the text" and "communicating the packets encoding the voice information and the text to the remote participant." As teaching these elements, the Examiner cites portions of *Pickett* that discuss the process of converting an analog voice signal into digital data packets suitable for transmission over a data network. (paragraphs [0373] and [0380]). The Examiner also cites a portion of *Pickett* discussing transmission of video information using TCP/IP to a remote computer. (paragraph [0194]). However, these portions merely show the processing and transmission of analog audio and video signals only. They simply do not show "generating packets encoding the voice information and the text" and "communicating the packets encoding the voice information and the text to the remote participant."

Without citing any authority, the Examiner apparently assumes that the packetized data stream disclosed in *Pickett* "inherently" includes text. *Office Action* at page 5. Applicants respectfully disagree. Transmitting audio and video information does not show "generating packets encoding the voice information and the text" and "communicating the packets encoding the voice information and the text to the remote participant."

While in limited circumstances an examiner may take official notice of facts not in the record or rely on "common knowledge" in making a rejection, "such rejections should be judiciously applied." M.P.E.P. § 2144.03. It is not appropriate for an examiner to take official notice of facts without citing a prior art reference "where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." *Id.* (citing *In re Ahlert*, 165 U.S.P.Q. 418, 420-21 (C.C.P.A. 1970)). To the extent that the Examiner maintains this rejection based on "Official Notice," "well known prior art," "common knowledge," or other information within the Examiner's personal knowledge, Applicants respectfully request that the Examiner cite a reference in support of this position or provide an affidavit in accordance with M.P.E.P. § 2144.03 and 37 C.F.R. § 1.104(d)(2).

All of these reasons apply similarly with respect to Applicants' Claims 8, 17, 24, and 31. Claims 2-7 depend from Claim 1; Claims 9-16 depend from Claim 8; Claims 18-23 depend from Claim 17; Claims 25-30 depend from Claim 24; and Claims 32-37 depend from

Claim 31. Therefore, for at least the reasons given, Applicants respectfully request reconsideration and allowance of Claims 1-37.

CONCLUSION

Applicants have made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of the Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Although no fees are believed to be currently due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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